

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DONALD EARL MINDER,)	
)	
Petitioner,)	Case No. 1:08-cv-214-SJM-SPB
)	
v.)	
)	
WARDEN MELVIN LOCKETT, <i>et al.</i> ,)	
)	
Respondents.)	

MEMORANDUM ORDER

The instant petition for writ of habeas corpus was first received by the Clerk of Court on July 28, 2008 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. On October 20, 2008, this Court entered an order adopting the Magistrate Judge's recommendation that Petitioner's motion for leave to proceed *in forma pauperis* be denied. Petitioner appealed this order and, on June 15, 2009, the Third Circuit Court of Appeals entered an order which summarily vacated this Court's denial of Petitioner's IFP motion and remanded the case for further proceedings. The docket sheet reflects that, due to an unspecified error, the appellate court's June 15, 2009 order was not forwarded to this court and entered upon the district court docket until October 20, 2010.

Upon remand from the Court of Appeals, this case proceeded. Petitioner was granted *in forma pauperis* status and his petition for writ of habeas corpus was served on the respondents, who have since responded.

The Magistrate Judge's Report and Recommendation, filed on May 18, 2011 [23], recommends that the instant petition for writ of habeas corpus be denied and that a certificate of appealability also be denied. The parties were allowed fourteen (14) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at his last known address of record, and on the Respondents. No objections to the Report and Recommendation have been filed to date.

After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 10th Day of June, 2011;

IT IS ORDERED that the instant petition for writ of habeas corpus be, and hereby is, DENIED. Inasmuch as reasonable jurists would not find it debatable whether each of Petitioner's claims in the instant petition lack merit and should be denied, IT IS FURTHER ORDERED that no certificate of appealability shall issue.

The Report and Recommendation of Magistrate Judge Baxter, filed on May 18, 2011 [23], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

Cm: All parties of record.

U.S. Magistrate Judge Susan Paradise Baxter